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Technical assistance and capacity-building

The situation of human rights in Afghanistan and technical assistance achievements in the field of human rights

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is being submitted pursuant to Human Rights Council decision 2/113 and resolution 14/15. It describes the human rights situation in Afghanistan from January to November 2016 and provides an overview of the core work and technical assistance conducted by the Human Rights Unit of the United Nations Assistance Mission in Afghanistan in cooperation with the Office of the United Nations High Commissioner for Human Rights.

The report focuses on the five principal areas of work of the Unit, namely: protection of civilians in armed conflict; human rights and the protection of children in armed conflict; the elimination of violence against women, increasing women's participation in peacebuilding and security, and gender equality; the prevention of torture and arbitrary detention; and the integration of human rights into peace and reconciliation processes.

The report concludes with concrete recommendations to the Government, anti-government elements and the international community.

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I. Introduction

1. The present report is being submitted pursuant to Human Rights Council decision 2/113 and resolution 14/15. It covers the period from January to November 2016 and has been prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA).

2. The report focuses on the five principal areas of work of the UNAMA Human Rights Unit, namely: protection of civilians in armed conflict; human rights and the protection of children in armed conflict; the elimination of violence against women, increasing women's participation in peacebuilding and security, and gender equality; the prevention of torture and arbitrary detention; and the integration of human rights into peace and reconciliation processes.

3. The Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to provide support to the human rights mandate of UNAMA, and the Director of the UNAMA Human Rights Unit represents the United Nations High Commissioner for Human Rights in Afghanistan.

II. Context

4. In 2016, the political and security situations remained fragile. Fighting intensified during the second quarter of the year and continued at high levels for the remainder of the reporting period. The Government of Afghanistan and its international partners attempted to reverse the gains made by the Taliban and other anti-government elements. Civilian casualties from conflict-related violence remained high. Planned reductions in foreign force levels were adjusted to retain a greater presence than originally envisioned. In July, the North Atlantic Treaty Organization (NATO) announced continued support for Resolute Support Mission beyond 2016, with force contributions and donations to forces of the Government of Afghanistan.[1]

5. On 29 September, the Government of Afghanistan and Hizb-i Islami Gulbuddin signed a peace agreement. On 4 and 5 October, at an international donor conference in Brussels, €13.6 billion were pledged for development assistance in 2017-2020, but little to no reference was made to human rights.

III. Protection of civilians

6. Civilians continued to suffer from the consequences of the armed conflict. The increasing number of offensives by anti-government elements, including the Taliban, against government-controlled population centres, combined with the expansion of newly emerging armed opposition groups and indications of resurgent pro-government armed groups in parts of the country, further complicated efforts to protect civilians.

7. From January to November 2016, civilian casualties from conflict-related violence increased by 1 per cent over the same period in 2015. While overall civilian casualties remained comparable to the high levels recorded in 2015, child casualties increased by 20 per cent and women casualties decreased by 8 per cent.

[1] See www.nato.int/cps/en/natohq/official_texts_133171.htm?selectedLocale=en.

8. During the reporting period, UNAMA/OHCHR documented 10,533 civilian deaths and injuries of men, women and children. UNAMA/OHCHR attributed 62 per cent of that total to anti-government elements and 24 per cent to pro-government elements comprised of the Afghan National Defence and Security Forces, pro-government armed groups and international military forces; 10 per cent resulted from ground engagements between pro-government forces and anti-government elements but could not be attributed to a specific party to the conflict; and the remaining 4 per cent resulted mainly from explosive remnants of war that could not be attributed to any party.

9. UNAMA/OHCHR recorded decreases in civilian casualties from targeted and deliberate killings and from improvised explosive devices. However, civilian casualties caused by explosive remnants of war increased by 76 per cent, while those resulting from air strikes increased by 86 per cent. As in 2015, UNAMA/OHCHR documented a decrease in civilian casualties in all regions except the central, southern, northern and western regions.

10. On 3 October, in the north-east, the Taliban launched an attack on Kunduz, capturing a significant part of the city and sparking nearly two weeks of urban fighting that continued until 12 October, when Government forces announced they had regained control of the entire city. UNAMA/OHCHR verified that, between 3 and 12 October, 52 civilian men, women and children were killed or injured, and it has continued to investigate allegations of an additional 99 civilian casualties. The majority of the casualties resulted from ground fighting between Taliban fighters and Afghan security forces. In other areas, attacks by anti-government elements on territories under government control persisted, with the attempted takeover of the capitals of Farah, Helmand and Uruzgan provinces. Civilian casualties and the displacement of populations were recorded in each of those locations.

11. In 2016, UNAMA/OHCHR documented an overall 10 per cent increase countrywide in the number of civilian casualties resulting from complex and suicide attacks, mainly attributed to several large attacks in Kabul, where civilian casualties resulting from such tactics increased by 77 per cent.

12. Islamic State in Iraq and the Levant (ISIL/Da'esh) — Khorasan Province[2] claimed responsibility for a suicide attack against a peaceful demonstration by civilians belonging to the Hazara community held in Kabul on 23 July. During the attack, 85 civilians were killed and 413 injured. It was the deadliest single incident recorded by UNAMA/OHCHR since 2009, when UNAMA first began recording civilian casualties. Moreover, it was one of four attacks against the Shia minority during the reporting period.[3]

13. In 2016, UNAMA/OHCHR released three public reports on the situation of civilians, highlighting civilian deaths and injuries, analysing key trends and making recommendations to all parties to the conflict.[4]

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[2] All factions of the self-identified "Islamic State" are commonly referred to in Afghanistan as "Da'esh", after the Arabic acronym.

[3] The other incidents are outlined in sect. III. A.

[4] See https://unama.unmissions.org/sites/default/files/poc_annual_report_2015_final_14_feb_2016.pdf, https://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2016_final_rev.1-9sept.pdf, https://unama.unmissions.org/sites/default/files/19_october_2016_-_un_chief_in_afghanistan_renews_call_for_parties_to_protect_civilians_english.pdf and https://unama.unmissions.org/sites/default/files/23_july_suicide_attack_against_peaceful_demonstration_-_18_oct_2016.pdf.

A. Anti-government elements

14. Between January and November 2016, UNAMA/OHCHR attributed 62 per cent of the total number of civilian casualties, namely 6,496 civilians (1,958 of whom died and 4,538 of whom were injured), to anti-government elements. The term "anti-government elements" is used to refer to a wide range of armed groups, including the Taliban, Da'esh and Hizb-i Islami. That figure represents a 1 per cent decrease in total civilian casualties attributed to such groups compared with the same period in 2015.

15. Although improvised explosive devices remained the second leading cause of civilian casualties, UNAMA/OHCHR documented a 13 per cent decrease in civilian casualties from such devices (a similar decrease was recorded in 2015), with 1,984 civilians dying or suffering injuries. Improvised explosive devices accounted for 19 per cent of all civilian casualties, while complex and suicide attacks and improvised explosive devices together accounted for 37 per cent of the total. The Taliban claimed responsibility for a complex attack against the VIP Security Directorate in Kabul on 19 April 2016, when the detonation of a truck laden with heavy explosives killed 56 civilians and injured 337 others. On 20 June, anti-government elements detonated a remote-controlled improvised explosive device in a market area in the Kishem district of Badakhshan Province, killing 12 civilians and injuring 36 others. No group claimed responsibility for the attack.

16. Anti-government elements continued targeting civilians who worked for or were perceived to support government and international military forces. During the reporting period, UNAMA/OHCHR recorded 1,078 deaths and injuries resulting from targeted and deliberate attacks on civilians — a 21 per cent decrease compared with the same period in 2015. On 5 March, in Kandahar city, anti-government elements shot and killed a custodian in front of the mosque where he worked. The Taliban claimed responsibility for the incident, alleging that the victim was working with the intelligence services.

17. UNAMA/OHCHR documented a 27 per cent increase in civilian casualties related to attacks by anti-government elements against religious figures and places of worship in the first 10 months of 2016 compared with the same period in 2015. In total, 290 deaths and injuries related to such incidents were recorded in 2016, with the majority resulting from targeted killings.

18. UNAMA/OHCHR documented two attacks against Shia worshippers gathered to mark the Muslim day of remembrance, Ashura. On 11 October, a suicide attacker wearing an Afghan National Police uniform fired indiscriminately at worshippers at the Karte Shakhi Shia shrine and mosque in Kabul, killing 19 people, including 4 women and 2 children, and injuring another 60, including 25 women and 4 children. The number of casualties could have been higher had Afghan security forces not shot the attacker dead before he could detonate his suicide vest. Da'esh claimed responsibility for the incident. On 12 October, a remote-controlled improvised explosive device was detonated at the entrance of a mosque in the Balkh district of Balkh Province, killing 18 civilians (11 men and 7 children) and injuring 67 others (31 men and 36 children). UNAMA/OHCHR documented two further incidents targeting Shia Muslims. On 21 November, a suicide attacker detonated a body-borne-improvised explosive device at a mosque in Kabul, killing 40 male civilians and injuring 74 other males. Da'esh claimed responsibility for the attack. On 22 November, anti-government elements detonated a remote-controlled improvised explosive device at the Razaiya mosque in Herat city, injuring four male worshippers. No group claimed responsibility for that act.

19. Furthermore, UNAMA/OHCHR documented numerous instances of abductions of civilians from the Hazara community by anti-government elements. Discriminatory intent based on ethnicity or religion was not reported as one of the motives for such acts as holding hostages for ransom or exchanging detainees; among the reported motives for such

acts were suspicion of support to the Government or of membership in the Afghan National Defence and Security Forces. Between 1 and 17 June, anti-government elements in a Taliban-controlled area of the Sancharak district, Sari Pul Province, abducted 22 civilians of Hazara ethnicity, including 3 women and 1 child. On 29 August, anti-government elements abducted five Hazara men in the Chora district of Uruzgan Province; all five were eventually released following the intervention of local tribal elders.

B. Pro-government elements

20. During the reporting period, UNAMA/OHCHR attributed 2,493 civilian deaths and injuries to pro-government forces, which represents a 44 per cent increase compared with 2015. The rise resulted from an increase in offensive operations and counter-attacks by the Afghan National Defence and Security Forces against anti-government elements in or around civilian-populated areas. In a continuation of the trend documented in 2015, 47 per cent of civilian casualties caused by pro-government forces during the reporting period resulted from the use of explosive weapons, mainly mortars, rockets and grenades. On 3 November, Afghan National Defence and Security Forces fired mortar rounds targeting a Taliban position in Khwaja Sabz Posh district, Faryab Province. One of the rounds landed in a civilian compound where a wedding party was taking place, killing 12 civilians, including 6 girls and 4 boys, and injuring 13 others, including 10 girls.

21. UNAMA/OHCHR documented an 86 per cent rise in civilian casualties from air strikes by pro-government forces compared with the same period in 2015. Such incidents caused 548 civilian deaths and injuries, equal to 5 per cent of all civilian casualties. Air strikes by the Afghan air force caused the majority of such casualties (218). On 27 October, the Afghan National Army conducted an air strike targeting Taliban fighters in Dehrawud district, Uruzgan Province, killing four civilians. On 2 November, international military forces carried out an air strike against the Taliban in Kunduz city that killed 32 civilians and injured 36 others, mostly women and children.

22. On 26 January 2016, responsibility for the Civilian Casualty Avoidance and Mitigation Board was transferred from NATO to the Government of Afghanistan. UNAMA/OHCHR encouraged the Government to ensure that the Afghan-led Board functioned as a focused, operational mechanism to identify areas for improving civilian casualty mitigation efforts and welcomed support from the international community to strengthen it. The Board drafted a national policy on civilian casualty mitigation and established a working group to draft an action plan for implementing it. The first meeting of the working group was held on 2 October. UNAMA is a member of the working group and provides technical support on international law and practices.

23. UNAMA/OHCHR also welcomed initiatives by the Government to mitigate civilian casualties. In particular, in 2016, the Government approved the above-mentioned national policy on civilian casualty mitigation. It further established a senior-level working group designed to facilitate a policy-driven dialogue on existing protection-of-civilians concerns and to support the implementation of improved practices to reduce civilian casualties. The Chief Executive of the National Unity Government chairs the working group, which first met on 30 June 2016.

IV. Children and armed conflict

24. From January to November 2016, the country task force on monitoring and reporting on children and armed conflict verified 1,501 incidents of killing and maiming (from 1,754 reported incidents), which represents a 23 per cent increase compared with the

same period in 2015. The task force verified that at least 820 boys and girls had been killed and 2,344 boys and girls had been injured. On average, more than 66 children were killed or injured each week, compared with 55 in 2015.

25. In 2016, ground engagements accounted for more than 50 per cent of child casualties, with 1,602 boys and girls killed or injured. Explosive remnants of war were the second leading cause of child deaths and injuries, for a total of 531 casualties, and improvised explosive devices followed, causing 509 child casualties. Air strikes killed and injured 183 children, compared with 59 in 2015. On 25 July, in Achin district, Nangarhar Province, international military forces conducted an aerial attack against a Da'esh post inside a residential area. One of the rounds fired missed the target and struck a nearby residence, killing four civilians, including one girl.

26. Targeted killings resulted in 138 child casualties and suicide attacks by anti-government elements caused 129 child casualties, with the highest numbers recorded in the central region with 70 child casualties. The mission recorded 72 incidents involving children, mainly threats, intimidation and abductions.

27. Anti-government elements perpetrated 42 per cent of all verified child casualties; 32 per cent were committed by pro-government forces. Another 15 per cent of child casualties could be attributed to both anti- and pro-government forces, while the remaining 13 per cent could not be attributed to any party to the conflict.

28. Between January and September 2016, the country task force on monitoring and reporting verified 61 reports of incidents affecting education and education-related personnel, which represents a decrease of 53 per cent compared with the same period in 2015. Incidents affecting access to education included deliberate targeting and incidents that impeded access to education, including burning, improvised explosive device placement or detonation on school premises, abduction, threats, intimidation and harassment of education or education-related personnel, and the military use of schools. The task force attributed 54 incidents to anti-government elements and 5 incidents to pro-government elements, while 2 other incidents could not be attributed to any party to the conflict. In addition, the task force documented 15 incidents involving the military use of schools and of a teacher-training centre. Of those attacks, 12 were attributed to Afghan National Defence and Security Forces, 2 to the Taliban and 1 to pro-government militias.

29. Between January and September 2016, the country task force on monitoring and reporting verified 80 reports of attacks, threats and incidents affecting hospitals and health personnel, of which 70 were attributed to anti-government elements. The incidents occurred in the context of ground engagement and targeted attacks and included intimidation, threats, harassment, abduction of health or health-related personnel, search operations and the military use of health facilities. On 16 April, in the Nazyan district of Nangarhar Province, Da'esh militants issued written threats to force the staff of the Dwa Khwly Basic Health Centre to leave, then occupied and looted the facility, taking equipment. The task force also verified 14 incidents of the military use of health facilities, 9 of which were attributed to Afghan National Defence and Security Forces, 2 to the Taliban, 2 to undetermined armed groups and 1 each to the Taliban and the Afghan National Defence and Security Forces.

30. The country task force on monitoring and reporting verified 39 incidents of underage recruitment, involving 66 boys mainly used for planting improvised explosive devices, transporting explosives, carrying out suicide attacks and spying. That figure represents an increase in the number of children used or recruited in comparison with 2015, when the recruitment and use of 48 children was reported and verified. The task force attributed the recruitment of 56 boys to anti-government elements and the recruitment of 10 boys to pro-government forces. As an illustration, on 8 July 2016, in the Gardez district of Paktya Province, anti-government elements recruited a 13-year-old boy from a local

madrassa to conduct a suicide attack. The child was killed when he tried on the suicide vest in his house.

31. The country task force on monitoring and reporting documented nine incidents of abduction, involving at least 23 children. Anti-government elements perpetrated six of those abductions, of which the task force attributed five to the Taliban. The Afghan National Defence and Security Forces perpetrated the remaining incident, on 19 September 2016, in the Alishing district of Laghman Province, when seven children between 7 and 16 years of age and a logistics officer from Shamsakhail School were abducted in response to the abduction of an Afghan National Army soldier by the Taliban. Community elders intervened and negotiated the release of all the abductees.

32. The country task force on monitoring and reporting verified three incidents of rape and sexual violence against four boys and one girl, of which two were perpetrated by the local police and one by the Taliban.

33. Anti-government elements continued to deny humanitarian access to areas under their control. The country task force on monitoring and reporting verified 70 such incidents, which represents a 19 per cent decrease compared with 2015, when 86 such incidents were verified. Incidents included abduction, intimidation, killing and injury of humanitarian staff (mostly deminers), denial of access to providers of vaccines and damage to facilities run by humanitarian organizations. The task force attributed 94 per cent of those incidents to anti-government elements.

34. On 18 April, UNAMA/OHCHR, in conjunction with the United Nations Children's Fund (UNICEF), released *Education and Healthcare at Risk: Key Trends and Incidents Affecting Children's Access to Healthcare and Education in Afghanistan*.[5] The report documents how, between January 2013 and December 2015, conflict-related violence, combined with threats and intimidation by all parties to the conflict, harmed health and education personnel, reduced the availability of health care and limited children's access to essential health services and education.

35. The country task force on monitoring and reporting noted significant progress from the Ministry of the Interior with regard to the expansion of child protection units in Afghan National Police recruitment centres. Between January and November 2016, the Afghan National Police inaugurated 12 additional child protection units, bringing the total number of such units in the country to 17.

36. On 18 June 2016, the Ministry of the Interior published a directive prohibiting the exposure in the media of children arrested on national security charges. On 4 June and 4 July respectively, the Ministry of Education issued two directives to all security-related ministries highlighting the commitment of Afghanistan to the Safe Schools Declaration and calling on the security forces to stop using schools for military purposes. On 2 July, the National Directorate for Security issued a directive prohibiting children from being held in its detention facilities and from being transferred to adult prisons.

37. On 3 September 2016, in coordination with the Afghanistan Independent Human Rights Commission and the Herat Department of Information and Culture, UNAMA hosted a film festival on the effects of armed conflict on children. Thirty-two entries were submitted, including by women and members of disabled communities in Herat and Badghis provinces. A 16-year-old female student from Herat Province directed and produced the winning film.

[5] See https://unama.unmissions.org/sites/default/files/education_and_healthcare_at_risk.pdf.

V. Protection from arbitrary detention and respect for fair trial rights

38. The treatment of conflict-related detainees remained of major concern during the reporting period. Based on interviews with several hundred conflict-related detainees, including juveniles held by the National Directorate of Security, the Afghan National Police and the Afghan National Army in 26 provinces, UNAMA found that the detainees had experienced torture or ill-treatment at levels exceeding those documented in its 2015 public report.[6] In most cases, the authorities used torture and ill-treatment to extract a confession. While the majority of documented cases related to incidents allegedly carried out in National Directorate of Security facilities, UNAMA also noted a significant increase in the use of torture and ill-treatment by the Afghan National Police. Since December 2015, the Government has made little tangible progress in meeting its commitments under the 2015 national plan on the elimination of torture. Notably, accountability persists for alleged perpetrators of torture and ill-treatment.

39. At the time of writing, the Ministry of Justice was finalizing the draft of a new anti-torture law, providing an opportunity to align the definition of torture with the international human rights obligations of Afghanistan. Despite the public commitments that the President has made since June 2015, the Government has yet to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

40. The United Nations High Commissioner for Human Rights notes with concern the increasing restrictions placed by the Government on access by UNAMA human rights staff members to detention facilities, to monitor the treatment of conflict-related detainees. In September and October 2016, the Central Prisons Directorate of the Ministry of the Interior suspended the authorization for UNAMA to access its facilities to interview detainees. In addition, since mid-August 2016, UNAMA has been formally denied access to interview prisoners on death row.

41. In mid-2016, the National Assembly rejected article 10 of Presidential Decree 76, which had provided for the preventive detention, in a "special facility", of individuals suspected of posing an actual or potential threat to national security. Other problematic articles of the decree remain in force, however, including those which extend to 60 days the time limit before which those arrested for crimes against national security must be brought before a judge.

VI. Question of the death penalty

42. On 8 May 2016, six convicted prisoners previously sentenced to death for crimes under national security laws were executed. UNAMA/OHCHR continued to advocate for respect of the fair trial guarantees provided for in the Constitution, the Criminal Procedure Code and the International Covenant on Civil and Political Rights, particularly given ongoing concerns over the torture and ill-treatment of detainees. OHCHR also urged the President of Afghanistan to refrain from approving death sentences, to introduce an immediate official moratorium on the use of the death penalty and to expedite legal reform, including of the Penal Code and the Criminal Procedure Code, to allow death sentences to be commuted to life imprisonment.

[6] See http://unama.unmissions.org/sites/default/files/unama_detention_report_2015_revised.pdf.

VII. Violence against women and promotion of women's rights

43. The Government continued its efforts to address violence against women and girls. On 31 January 2016, the President inaugurated a fund specifically for sponsoring emergency services, such as medical treatment and temporary accommodation, for women survivors of life-threatening acts of violence. Increased funding is critical to ensuring that the fund can offer appropriate support to all those in need. On 11 June, the Government approved the 2016-2020 strategy and action plan on the elimination of violence against women, which, at the time of writing, were yet to be disseminated.

44. The prevalence of violence against women and harmful practices remained of serious concern. From January to November 2016, UNAMA/OHCHR documented 10 punishments that were handed down by a parallel justice system run by anti-government elements to women accused of so-called moral crimes (such as sexual intercourse outside of marriage and prostitution). The judgments resulted in the execution of four women and the lashing of five women, in several provinces. In addition, attempts by anti-government elements to implement a sentence of stoning against a woman in Takhar Province in June were averted following a negotiation by elders. The imposition of the death sentence and corporal punishment on women and girls for perceived moral offences mostly took place in areas under Taliban control or influence. Such practices violate the Constitution, constitute criminal acts under domestic law and amount to human rights abuses.

45. From January to November 2016, UNAMA/OHCHR documented 605 alleged cases of violence against women, including murders, forced immolation, honour killings, rapes, battery and laceration, and forced marriages. In 118 of those cases, the victims were minors. While the majority of cases were still pending, at least 86 cases, mostly involving battery and laceration, had been the subject of mediation by the competent institutions (57), traditional justice mechanisms (21) or non-governmental organizations (8), in accordance with article 39 of the 2009 law on the elimination of violence against women. Focus group discussions carried out by UNAMA at the grass-roots level with 686 women and 126 mediators on their experiences of mediating cases of violence revealed the need to standardize the approach and oversight mechanisms to ensure the protection of the rights of women survivors.

46. UNAMA/OHCHR continued to advocate for prevention and response efforts to be based on human rights. However, law enforcement officials admitted to UNAMA/OHCHR that they were unable to investigate incidents of violence against women and to apprehend alleged perpetrators in areas under the control of anti-government elements. As a result, the conflict has contributed to a culture of impunity whereby victims are denied the right to effective remedies, including gender-sensitive reparations. The situation has further eroded the already weak public trust in the ability of the authorities to enforce the rule of law, particularly with respect to acts of violence against women.

47. The Government continued its work on revising the Penal Code with the aim of submitting the entire revised law to the National Assembly by December 2016. UNAMA/OHCHR worked closely with the United Nations and civil society in advocating for the integration of international human rights norms into efforts aimed at increasing the protection of women from violence.

48. Despite some progress, women continued to face severe obstacles in participating in political, economic and social life owing to several factors, such as widespread violence, explicit restrictions imposed by anti-government elements and the existence of deep-rooted discriminatory social norms that discourage women from exercising their rights. Those social barriers deter women from taking jobs entailing close interaction with men. Threats and attacks targeting women in prominent positions continued in 2016. Among other

incidents, the Head of the Department of Women's Affairs in the city of Ghazni was attacked by unknown assailants on 26 July 2016.

49. Harassment of women in the workplace, including sexual harassment, remained of concern. Pursuant to the 2015 regulation on the elimination of harassment against women, committees have been established in several provinces to prevent and respond to incidents of harassment. UNAMA/OHCHR was instrumental in advocating for the prompt establishment of such committees and disseminating their terms of reference. On 9 November, the Wolesi Jirga (the lower house of parliament) approved a law on the elimination of harassment against women and girls.

50. At the end of October 2016, women's presence in the Afghan National Police increased to 2,880, equal to only approximately 1.8 per cent of the total force. Consultations carried out by UNAMA/OHCHR in June 2016 with 314 women police officers and Afghan National Police officials in 19 of the country's 34 provinces revealed that measures taken by the Ministry of the Interior to integrate women into the Afghan National Police had produced observable progress in the professionalization and empowerment of women police officers. Concerns remain, however, regarding their protection, particularly their harassment in the workplace, and regarding the implementation of gender policies at the district level. UNAMA/OHCHR shared the findings of that consultation and related recommendations with the Government and donors.

51. On 11 July 2016, the Ministry of the Interior established a complaint mechanism to prevent and respond to sexual harassment against women police officers. UNAMA/OHCHR were among the four international organizations asked to provide technical support to the mechanism, which was due to hold its first meeting before the end of 2016.

52. The Government stepped up efforts to ensure women's representation in the public sphere. Notably, the election law that was approved on 22 August 2016 and published on 25 September contains temporary special measures, such as reserving at least 25 per cent of seats for women representatives in the provincial, district and village councils. However, numerous obstacles continue to hamper women's entry and increased representation in Government institutions.[7]

53. On 3 February 2016, the Government identified the former governor of Bamyan Province and current adviser to the Chief Executive on women's rights, Dr. Habiba Sarabi, as the person to represent women in the negotiating team for future peace talks. She was also appointed, on 21 February 2016, as one of six deputies to the new head of the High Peace Council.[8] In addition, joining four male advisers, two women — the director of the Afghan Women's Network and a presidentially appointed Senator — were asked to play an advisory role to the Council. The Afghanistan peace and reconciliation strategy envisions a 30 per cent participation by women in the Council at both the central and local levels. UNAMA/OHCHR provided technical support to the female member of the Council on strategies aimed at achieving an inclusive peace process based on women's meaningful participation, including through the integration of women's voices, experiences and recommendations.

[7] Afghanistan, Ministry of Women's Affairs, "Workplace obstacles: analysis and recommendations", (2016).

[8] The Afghanistan High Peace Council is part of the Afghanistan Peace and Reintegration Programme, established on 5 September 2010 by former President Hamid Karzai to promote peace in Afghanistan.

54. The Government also developed plans to implement, monitor and evaluate the national plan on Security Council resolution 1325 (2000) on women and peace and security, the funding of which remained under discussion. Swift implementation is of paramount importance for ensuring women's effective participation in building sustainable peace and security.

55. Throughout the year, UNAMA/OHCHR conducted promotional activities to raise public awareness of women's rights. In cooperation with national institutions and civil society, UNAMA/OHCHR reached over 1,000 Afghans in Herat, Farah, Zabul, Balkh, Baghlan and Khost provinces through presentations, round tables and debates on women's rights. In October and November 2016, UNAMA/OHCHR trained 447 members of "policewomen councils" working in 16 provinces, including at the district level, on human rights and domestic legal frameworks protecting women from violence.

56. On 26 October 2016, in Kabul, the United Nations chaired the annual global open day event on Security Council resolution 1325 (2000) under the theme "Women and violent extremism in Afghanistan", alongside 13 regional open day events held across the country between September and November. More than 400 participants, over half of whom were women from civil society, recognized women's crucial role in fostering a peaceful society and challenging radical ideologies to prevent members of their communities and families from becoming violent extremists.

57. UNAMA/OHCHR contributed to the holding of the fourth edition of the international women's film festival, held in Kabul from 19 to 22 October 2016. The festival promoted greater public awareness of the status of women and girls in Afghanistan and worldwide through film screenings and debates.

VIII. Peace and reconciliation, including accountability and transitional justice

58. On 22 September 2016, the Government signed a peace agreement with the armed group Hizb-i Islami led by Gulbuddin Hekmatyar. Under the terms of the agreement, Hizb-i Islami is obliged to dissolve its military and paramilitary structures, to ensure a permanent ceasefire and to recognize and implement the Constitution. The United Nations High Commissioner for Human Rights has noted with concern, however, that the agreement provided immunity for the leadership and members of the organization with regard to past political and military actions. In addition, the agreement provides for the integration of Hizb-i Islami fighters into the Afghan security forces without a vetting process for determining their possible involvement in past violations. The High Commissioner has reminded the Government of its obligations under international law, which prohibits blanket amnesties preventing the prosecution of individuals who may be criminally responsible for serious violations of international human rights law and international humanitarian law, including war crimes and crimes against humanity. Furthermore, the High Commissioner has urged the Government to ensure that the rights of victims and their families are made central to any peace process for, if they are not, peace and reconciliation will not be sustainable.

59. UNAMA/OHCHR continued to monitor peace and reconciliation efforts and to encourage the meaningful inclusion of civil society in the peace process. Following the efforts made by UNAMA/OHCHR in 2015 as part of the Afghan People's Dialogue on Peace, which involved the provision of support to civil society through the establishment of provincial civil society advocacy committees and a national steering committee, in 2016 the provincial advocacy committees called for the implementation of the recommendations contained in the provincial road maps for peace, which were based on countrywide

consultations with over 4,500 Afghans. Efforts were made to achieve gender balance during consultations but the results of those efforts were uneven across the regions. Overall, 67 per cent of the participants in the consultations were men and 33 per cent were women. Committee members reported, however, that the deteriorating security situation impeded their rights to freedom of movement and freedom of expression. Specifically, their access to many districts and communities was hindered and their ability to advocate freely for accountability and human rights protection was affected. Acting as the secretariat of the Afghan People's Dialogue on Peace, UNAMA/OHCHR provided technical assistance to the civil society provincial advocacy committees and the national steering committee for the finalization of the 34 provincial road maps for peace, which have led to progress in good governance in some provinces and have the potential to pave the way for a sustainable peace.

60. Furthermore, UNAMA/OHCHR continued to support civil society, to monitor the situation of human rights defenders, civil society and media workers and to work with the Government to encourage measures to ensure that civil society space is preserved, protected and respected. In partnership with the Afghanistan Independent Human Rights Commission, during 2016 UNAMA/OHCHR conducted 11 capacity-building workshops across the country that were attended by 203 civil society representatives (both men and women) on how to engage effectively with international human rights mechanisms. During the workshops, civil society actors raised concerns about the diverse challenges to their work, including: the lack of recognition and respect from local authorities; political interference; decreased funding; threats, intimidation and other forms of abuse by anti-government elements, warlords and, on occasion, local authorities; and the lack of adequate protection and redress for such abuses. Moreover, the armed conflict further impeded civil society access to areas outside major administrative centres and restricted freedom of movement and freedom of assembly.

61. In addition to those challenges, which disproportionately affected women, women's rights activists reported that they were often stigmatized and harassed by members of their communities, including their own families, for promoting or defending women's rights. The space for women's participation, already limited owing to the traditional norms of a male-dominated society, has been further restricted by the many obstacles to civil society activism.

62. UNAMA/OHCHR continued to support the Afghanistan Independent Human Rights Commission. A key challenge faced by the Commission in 2016 was staff retention, as a significant number of qualified staff members left to join government offices or seek better-paid opportunities. In an effort to enhance the capacity of the Commission, UNAMA/OHCHR invited three Commission staff members to participate in a training workshop organized together with the International Institute for Criminal Investigations. The workshop, which was held in Doha from 21 to 25 August, was aimed at developing the investigation and documentation skills of Afghan human rights monitors dealing with violations of international human rights law, international humanitarian law and international crimes.

IX. Safety of journalists and media workers

63. During 2016, parties to the conflict displayed a lack of respect for the rights to freedom of expression and to receive and impart information. UNAMA/OHCHR noted with concern that armed conflict, coupled with direct threats and attacks on media workers and the lack of State protection, not only deterred journalists from exercising fully their right to seek and disseminate information, but also allegedly often led journalists to censor themselves in order to avoid reprisals or to relocate to seek safety or protection.

64. In 2016, State actors were alleged to have subjected journalists to beatings, arbitrary detentions and harassment and obstructed their access to information and reporting. In particular, UNAMA/OHCHR received allegations of ill-treatment against journalists attempting to report on security incidents by Afghan security forces, including the National Directorate of Security. UNAMA/OHCHR are not aware of investigations into such incidents.

65. Anti-government armed groups subjected journalists to intimidation, deliberate attacks and killings. In 2016, 12 journalists (9 men and 3 women) were killed. Of that total, seven were killed by the Taliban because of their association with the media (see para. 66 below), three were unintentionally killed in attacks during assignments in conflict areas and two were killed in allegedly criminally motivated incidents.

66. The Taliban continued its campaign of threats and intimidation against media outlets, labelling specific outlets as "military targets". Following their threat against Tolo TV in 2015, on 20 January 2016 a suicide attack with a vehicle-borne improvised explosive device against a shuttle bus operated by the Moby Group (the parent company of Tolo TV) killed 8 civilians, including 7 Tolo TV staff members, and injured 30 others. The Taliban claimed responsibility for the attack, stating that it was in retaliation for Tolo TV's alleged severe hostility to Islam, for serving as an apparatus and propaganda mechanism of the United States of America, for disrespecting Kunduz citizens and for making false accusations of executions, plunders, kidnappings and other abuses.

67. International human rights law and international humanitarian law provide effective normative protection to journalists and other media professionals in their exercise of the right to freedom of expression and from threats and attacks.[*] In particular, attacks deliberately directed at journalists are prohibited under international humanitarian law, as they are not participants in the hostilities they cover and do not lose their status as civilians. As such, the deliberate attack on the Moby Group shuttle bus is likely to have constituted a war crime. UNAMA/OHCHR noted with concern several threatening statements made by the Taliban against independent media outlets, which were often branded as "puppets controlled by the invaders". UNAMA/OHCHR also documented threats and intimidation perpetrated by anti-government elements, such as Da'esh, against radio stations in Jalalabad, Nangarhar Province.

68. Many Afghan human rights defenders have reported that the attacks by anti-government elements, the threats against journalists and human rights defenders and the increasing insecurity all affected their ability to advocate for human rights and created a climate of fear, and that the Government provided inadequate support to ensure their safety. Expanded Taliban armed activities in Farah, Helmand and Kunduz provinces have led to scores of journalists and civil society actors fleeing those provinces for fear of reprisals.

69. UNAMA/OHCHR therefore welcomes the renewed commitment of the Government to addressing violence against journalists. On 31 January 2016, the President issued a decree affirming the commitment of Afghanistan to freedom of expression in the media. Yet, the decree contains language indicating that the Government might seek to control or limit journalistic freedom of expression on national security grounds. In line with the decree, on 8 March a commission was set up to investigate cases of murder and violence against journalists and media workers since 2001. The commission received information related to 679 cases, of which 252 have been dismissed either because of the amount of time that has passed since the incident or because of the inability to access a specific area owing to insecurity.

[*] See A/HRC/24/23.

70. Furthermore, during the Afghanistan-European Union human rights dialogue held in Kabul on 1 June 2016, the Government committed itself to instructing the Afghan National Defence and Security Forces to respect freedom of expression and protect human rights defenders. Subsequently, the Ministry of the Interior and the National Directorate of Security issued instructions to their personnel on respect for freedom of expression; the Ministry of Defence, however, has not yet done so. The Government also committed itself to establishing, by the end of 2016, a mechanism for sharing information among security ministries on threats against journalists and members of civil society. Although the Ministry of the Interior has not yet complied, such information-sharing on individual cases has occurred during the past year.

X. Cooperation with United Nations human rights mechanisms

71. From 11 to 20 November 2016, the Special Rapporteur on the human rights of internally displaced persons visited Afghanistan with the joint support of the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees and OHCHR. At the end of his mission, the Special Rapporteur issued a statement urging national and international actors to demonstrate consistency in addressing the situation of the hundreds of thousands of people across the country who were either newly displaced by the conflict or were facing repeated or protracted displacement. He further called for enhanced support and funding for durable solutions to the plight of the internally displaced, improved access to a national identity card and full implementation of the 2014 national policy on internally displaced persons.

XI. Conclusion

72. **In 2016, civilians continued to suffer the gravest impact of the conflict. UNAMA/OHCHR documented the highest levels of civilian casualties since 2009 and continued to receive reports of violence against women, torture and ill-treatment. Of particular concern was the alarming spike in child casualties, which rose by a fifth over 2015.**

73. **Over the past year, the Government has faced considerable obstacles owing to the deterioration in the security situation and its need to address concurrent political and economic issues. Persistent institutional weaknesses in the administration of justice and the rule of law, combined with a pervasive culture of impunity for violations and abuses, continued to have an adverse impact on the human rights situation.**

74. **Ensuring respect for human rights can only become a reality once perpetrators are held accountable for human rights violations. Effective accountability for violations and abuses offers the only path to ending the cycle of violence and impunity and moving towards national reconciliation and a sustainable peace.**

75. **Another essential component of a durable solution lies in the active and inclusive participation of all Afghans, in particular women. As the Government publically recognized in 2016, the role of women in building a lasting peace is indispensable. UNAMA/OHCHR will therefore intensify its efforts to work with the Government, civil society, the international community and other stakeholders in building a culture of respect for human rights and the protection of civilians.**

XII. Recommendations

76. **The United Nations High Commissioner for Human Rights recommends that the actions set out below be taken in response to the foregoing.**

77. **To the Government of Afghanistan:**

(a) **Create a climate conducive to respect for human rights through the expansion and implementation of the legal framework and the strengthening of institutions in consonance with the reiterated commitment of the nation's leaders to guaranteeing human rights;**

(b) **Implement the national policy on civilian casualty mitigation and finalize the related action plan, which should include concrete objectives and measures to prevent casualties in the conduct of hostilities, and foresee the establishment of a dedicated and specialized entity within the Government to investigate all incidents of conflict-related harm to civilians, including conflict-related sexual violence;**

(c) **Build and expand the capacity of the Afghan National Defence and Security Forces to adequately monitor, identify and prevent cases of underage recruitment by establishing child protection units in provinces where they are not yet in place, and address the lack of services and alternatives for children who have been rejected for recruitment by the Afghan National Defence and Security Forces owing to their young age or who have been released from active service;**

(d) **Ensure due process and full protection of the rights of children detained on allegations of national security-related charges by developing and enforcing operating procedures and regulations, in line with national and international juvenile justice standards, and by reviewing the cases of children who have been detained without trial for prolonged periods of time;**

(e) **Ensure that appropriate, child-specific provisions and adequate resources are included in the Afghan Peace and Reconciliation Process;**

(f) **Ensure that victims of violations have an effective remedy and strengthen procedures to ensure gender-sensitive and inclusive reparations, including compensation to families of civilians killed and injured in conflict-related violence, by raising public awareness of procedures to obtain reparations, with particular attention to equal and effective access for women and girls;**

(g) **Increase efforts to prevent, punish and eradicate all forms of violence against women through the adoption and implementation of legal and policy frameworks compliant with international human rights standards, strengthen the capacity of the criminal justice system to ensure accountability and conduct countrywide campaigns to raise women's awareness of the remedies available in cases of violence;**

(h) **Ensure the swift implementation of the national plan on Security Council resolution 1325 (2000) by providing dedicated human and financial resources and accountability mechanisms to track and report on its effective application in an effort to ensure women's meaningful participation in all peace and reconciliation processes;**

(i) **Engage civil society meaningfully in all stages of the implementation of the Afghanistan Peace and Reconciliation Strategy and protect the space for civil society actors, in particular women and girls, working on peace and reconciliation processes and transitional justice initiatives;**

(j) Implement a robust vetting process to prevent members of armed groups involved in serious crimes, such as violations of international humanitarian law and international human rights law, from being recruited by security or government institutions as part of any peace settlements, while ensuring that no blanket amnesties are granted and the rights of victims are respected;

(k) Ensure that impunity for violations committed against journalists and members of civil society is addressed, that all violations are investigated promptly and thoroughly and that perpetrators are brought to justice, so that journalists and civil society actors may enjoy their legitimate rights to freedom of expression and access to information, without fear of reprisals or attacks;

(l) Establish a de jure moratorium on the death penalty and respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, in particular article 6 of International Covenant on Civil and Political Rights and the minimum standards set out in the annex to Economic and Social Council resolution 1984/50, improve the ability of the judiciary to guarantee fair trials and due process in all criminal proceedings pursuant to article 14 of the Covenant and consider the experiences of other countries that have faced mass atrocities and violence and that have moved towards the abolition of the death penalty while seeking justice for victims.

78. **To anti-government elements:**

(a) Cease the deliberate targeting of civilians, in particular civilian government officials, journalists, tribal elders, religious leaders, human rights defenders, judges and prosecutors, and civilian locations, in addition to places of worship and culture, in recognition of their civilian nature guaranteed under international humanitarian law;

(b) Issue statements recognizing the important role of civil society actors, notably human rights defenders and journalists, including women and girls, as well as their right to freedom of expression and critical opinion, and denouncing attacks against the media and civil society, acknowledging and respecting their civilian status;

(c) Cease the use of improvised explosive devices, particularly in indiscriminate and disproportionate complex and suicide attacks, in all areas frequented by civilians, as well as the use of illegal pressure-plate improvised explosive devices;

(d) Uphold statements by national leaders regarding the human rights of women and girls in areas under Taliban influence, especially by ceasing attacks and threats against girls' education, teachers and the education sector in general;

(e) Cease firing explosive weapons, particularly mortars, rockets and grenades, from and into civilian-populated areas.

79. **To all parties to the conflict:**

(a) Refrain from targeting civilian objects, including schools and hospitals, and take the measures necessary to cease indiscriminate attacks against civilian objects;

(b) Facilitate humanitarian access to all people and ensure that human rights actors are able to monitor and report on attacks affecting civilians and civilian objects, in accordance with international humanitarian law and international human rights law;

(c) Ensure accountability for the perpetrators of attacks against civilians and civilian objects where such attacks amount to violations of international humanitarian law or international human rights law;

(d) Provide an environment conducive for civil society, human rights defenders, journalists and media workers, in particular women and girls, to operate freely, including to promote human rights and the rule of law, without fear of intimidation, harassment, arrest, detention or any other human rights violation;

(e) Guarantee protection to journalists, civil society actors and human rights defenders, as civilians under international humanitarian law, and respect their rights to monitor and report freely on the armed conflict, without fear of attack or reprisal for their work.

80. **To the international community:**

(a) Support the Afghan security forces in their efforts to prevent civilian casualties and protect civilians from the harms of conflict-related violence;

(b) Support government efforts to advance the women, peace and security agenda, including through the implementation of the national plan on Security Council resolution 1325 (2000), through technical and support and targeted advocacy;

(c) Advocate with parties to the conflict for women's effective and meaningful participation in informal and formal peace negotiations and protection of their rights through future peace agreements;

(d) Promote a just and inclusive peace process by supporting civil society actors in their transitional justice efforts and their active participation in peace and reconciliation processes;

(e) Ensure that the rights of victims and their families and of witnesses are respected and protected in peace and reconciliation processes and settlements;

(f) Assist the Government of Afghanistan, through resource mobilization, to implement fully its commitments under the action plan on children in armed conflict.